

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Amela Porca-Malkic,	)	
	)	C/A No. 1:10-2202-MBS-PJG
Plaintiff,	)	
	)	
vs.	)	
	)	<b>O R D E R</b>
Adiz, LLC; ATC Development Corp.; ATC	)	
Construction, LLC,	)	
	)	
Defendants.	)	
_____	)	
	)	
Adiz, LLC,	)	
	)	
Third-Party Plaintiff,	)	
	)	
vs.	)	
	)	
Mulherin Lumber Company; Hoover	)	
Trusses Inc.; Duck & Son, Inc.; Robert	)	
Renew dba Renew Siding,	)	
	)	
Third-Party Defendants.	)	
_____	)	

On July 20, 2010, Plaintiffs Derith P. Beard, Sara W. Barrineau, and Amela Porca-Malkic<sup>1</sup> filed an Amended Summons and Complaint in the Court of Common Pleas for Aiken County, South Carolina, alleging various products liability claims relating to defects in their residences. Notice of Removal at 2, 5, ECF No. 1. Defendants Adiz, LLC (“Adiz”); ATC Development Corp.; and ATC Construction, LLC timely removed the case to the District of South Carolina. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2), D.S.C., on November 10, 2010, this action was

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<sup>1</sup> At this time, the only remaining plaintiff is Amela Porca-Malkic.

referred to United States Magistrate Judge Paige J. Gossett.

On September 3, 2010, Adiz filed a Third-Party Complaint against Robert Renew dba Renew Siding (“Renew Siding”) and three other parties. Third Party Complaint, ECF No. 13. During a status conference held before the Magistrate Judge on August 3, 2011, counsel for Adiz stated that Renew Siding had not been served with process and that no further service attempts would be made.

*See* Report and Recommendation of Magistrate Judge at 1-2, ECF No. 127. All parties consented to dismissal of Renew Siding as a party. *Id.*

The Magistrate Judge issued a Report and Recommendation recommending that Third-Party Defendant Renew Siding should be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m). No party objected to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Third-Party Defendant Robert Renew dba Renew Siding is dismissed without prejudice.

**IT IS SO ORDERED.**

s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

August 31, 2011